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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,975	11/07/2000	David B. Agus	MSKP039	8051

52334 7590 10/12/2006

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

1. The Appeal Brief filed on December 2, 2004 in response to the Office Action of November 3, 2004 is acknowledged and has been entered.
2. The Appeal Brief is defective because the Brief does not comply with the requirements of 37 CFR 41.37192 because:

1) Although the Summary of the Invention does include reference to page and line numbers drawn to CD20, a transmembrane protein and does include reference to page and line number drawn to the definition of active vaccination, the Summary does not provide page and line numbers for, as previously set forth, treatment of B Cell non-Hodgkin's lymphoma set forth in independent claim 12 or breaking tolerance set forth in independent claims 9, 12, 13. Further, it is noted that the summary of the claimed matter is intended to be a concise explanation of the subject matter defined in each of the independent claims involved in the appeal. While reference to page and line number of the specification requires somewhat more detail than simply summarizing the invention, it is considered important to enable the Board to more quickly determine where the subject matter is described in the specification. Although the summary section points to page 4, lines 8-23 and Examples 3-6 as well as page 5, lines 5-7 as being drawn to "breaking tolerance" a review of the citations does not appear to be drawn to breaking tolerance and therefore would not enable the Board to quickly determine where the subject matter is described in the specification. Thus, the Summary of the Invention does not include reference to the page and line numbers drawn to the claimed inventions and the section is defective.

2) Although the status of the claims drawn to the canceled claims is disclosed, 37 CFR 41.37 section c requires that "for each claim, appellant must state whether it is cancelled, allowed....., rejected". Although the

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section states that claims 9-13, 16-17, 21-24 are the subject of this appeal and that claims 1-8, 14-15 and 18-20 have been canceled, The status of the claims section does not indicate that the status of claims 9-13, 16-17, 21-24.

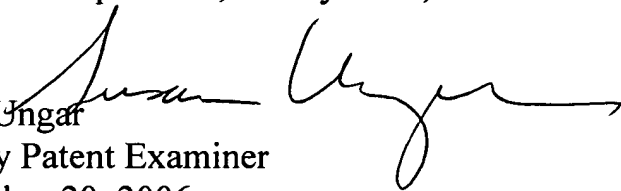
3) Although the claims appendix contains a copy of the claims involved in the appeal, the claims appendix is defective. MPEP specifically states that "The copy of the claims should be double spaced".

It is also noted that a brief review of the Appeal Brief revealed an inadvertent typographical error on page 3 wherein the text reads "stand rejected under 35 USC 112, second paragraph, as lacking enablement".

3. To avoid dismissal of the appeal, appellant must submit an appeal brief in compliance with the requirements of these sections within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or, (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at (571) 272-0787.


Susan Ungar
Primary Patent Examiner
September 20, 2006